



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2020-0730, EPA-R05-OAR-2020-0731; FRL-9629-02-R5]

**Air Plan Approval; Michigan; Emissions Statement Program and
Base Year Emissions Inventory**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is partially approving portions of State Implementation Plan (SIP) revisions submitted by the State of Michigan on December 18, 2020.

Specifically, EPA is approving the 2015 ozone National Ambient Air Quality Standards (NAAQS) base-year emissions inventory for Detroit area as meeting the requirements of the Clean Air Act (CAA). EPA is also approving revisions to Michigan's emissions statement program as meeting the requirements of the CAA.

DATES: This final rule is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established dockets for this action under Docket ID No. EPA-R05-OAR-2020-0730 and EPA-R05-OAR-2020-0731. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be

publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19. We recommend that you telephone Eric Svingen, Attainment Planning and Maintenance Section, at (312) 353-4489 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Eric Svingen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-4489, svingen.eric@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

I. Background Information.

On March 14, 2022 (87 FR 14210), EPA proposed to approve portions of a December 18, 2020, submittal from the Michigan Department of Environment, Great Lakes, and Energy (EGLE) as meeting the applicable requirements for a base year emissions inventory under CAA section 182(a)(1) for the Detroit nonattainment area for the 2015 ozone NAAQS, as well as portions of a separate December 18, 2020, submittal from EGLE as meeting the applicable requirements under CAA section 182(a)(3) for an emissions statement program. An explanation of the CAA

requirements, a detailed analysis of the revisions, and EPA's reasons for proposing approval were provided in the notice of proposed rulemaking (NPRM), and will not be restated here. The public comment period for this proposed rule ended on April 27, 2022.

In the March 14, 2022, NPRM, EPA proposed to take additional actions, including a determination that the Detroit area has met the requirements for redesignation to attainment under section 107(d)(3)(E) of the CAA the CAA. EPA's proposed actions received six comments, three of which are adverse. All of the comments relate to EPA's proposal to redesignate the area. None of the comments relate to EPA's proposal to approve the Detroit area base-year emissions inventory or the revisions to Michigan's emissions statement program. All of the comments received are included in the docket for this action.

We do not consider these comments to be germane or relevant to EPA's proposal to approve the Detroit area base year emissions inventory and revisions to the emissions statement program, and therefore not adverse to this action. The comments lack the required specificity to this action and the relevant requirements of CAA section 110. Moreover, none of the comments address a specific regulation or provision in question, or recommend a different action. Therefore, we are finalizing this action as proposed. Should EPA take final action on the other actions proposed in the March 14, 2022, NPRM, including a determination that the Detroit area has met the requirements for

redesignation to attainment, then EPA would address the adverse comments at that time.

II. Final Action.

EPA is approving portions of Michigan's December 18, 2020, submittals as meeting the base year emissions inventory and emissions statement requirements of sections 182(a)(1) and 182(a)(3), respectively.

Specifically, EPA is also approving EGLE's request to make several revisions to Michigan's SIP. EPA is removing from the SIP Section 5 of Act 348 of 1965, as amended. EPA is approving into the SIP Section 5503 of Act 451 of 1994, as amended, effective March 30, 1995. EPA is removing from the SIP the 1993 Michigan Air Pollution Reporting forms and reference tables, and EPA is approving into the SIP several updated forms: the 2020 version of AQD-013, the 2019 version of MAERS form SB-101 Submit, the 2019 version of MAERS form S-101 Source, the 2019 version of MAERS form A-101 Activity, the 2019 version of MAERS form EU-101 Emission Unit, and the 2019 version of MAERS form E-101 Emissions. EPA is removing from the SIP the 1993 MAERS general instructions, and EPA is approving into the SIP the January 2020 MAERS User Guide. Finally, EPA is approving into the SIP the 2017 base year inventory for the Detroit nonattainment area (Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties) for the 2015 ozone NAAQS.

In accordance with 5 U.S.C. 553(d) of the Administrative Procedure Act (APA), EPA finds there is good cause for this

action to become effective immediately upon publication. The immediate effective date for this action is authorized under 5 U.S.C. 553(d)(1) of the APA, which provides that rulemaking actions may become effective less than 30 days after publication if the rule grants or recognizes an exemption or relieves a restriction, and section 553(d)(3), which allows an effective date less than 30 days after publication as otherwise provided by the agency for good cause found and published with the rule.

The purpose of the 30-day waiting period prescribed in section 553(d) is to "give affected parties a reasonable time to adjust their behavior before the final rule takes effect."

Omnipoint Corp. v. Fed. Commc'n Comm'n, 78 F.3d 620, 630 (D.C. Cir. 1996); see also *United States v. Gavrilovic*, 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). However, when the agency grants or recognizes an exemption or relieves a restriction, affected parties do not need a reasonable time to adjust because the effect is not adverse.

This action, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, this action relieves Michigan of various requirements for the Detroit area. In addition, EPA has determined that this action removes from the SIP the 1993 versions of several forms, reference tables, and general instructions, which are no longer used by EGLE. Instead, upon the effective date of this action, the SIP would be updated to require the 2019 or 2020 versions of these forms,

reference tables, and general instructions. These versions are currently used by EGLE and aid sources in completing required submittals via electronic format. For these reasons, EPA finds good cause under 5 U.S.C. 553(d) for this action to become effective on the date of publication of this action.

III. Incorporation by Reference.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Michigan Regulations described in Section II of this preamble and set forth in the amendments to 40 CFR part 52 below. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov*, and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

IV. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and

¹ 62 FR 27968 (May 22, 1997).

applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a

petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 29, 2022.

Cheryl Newton,
Deputy Regional Administrator, Region 5.

For the reasons stated in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 52.1170 is amended:

a. In the table in paragraph (c), under “State Statutes”, by revising the entries for “Act 348 of 1965, as amended” (with a State effective date of 1990) and “Act 451 of 1994, as amended”; and

b. In the table in paragraph (e):

i. By revising the entry for “Information supporting emissions statement program”; and

ii. Under “Emissions Inventories” by adding an entry for “2015 8-hour ozone 2017 base year” before the entry for “1997 annual PM_{2.5} 2005 base year”.

The revisions and addition read as follows:

§ 52.1170 Identification of plan.

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(c) * * *

EPA--APPROVED MICHIGAN REGULATIONS

Michigan Citation	Title	State effective date	EPA approval date	Comments
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State Statutes				
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Act 348 of 1965, as amended	Air Pollution Act	1990	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Only section 14a.
Act 451 of 1994, as amended	Natural Resources and Environmental Protection Act	3/30/1995	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Only sections 324.5003, 324.5524 and 324.5525.
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(e) * * *

EPA--APPROVED MICHIGAN NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal Date	EPA Approval date	Comments
* * * * *				
Information supporting emissions statement program	Statewide	12/18/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	2020 version of AQD-013, 2019 version of MAERS form SB-101 Submit, 2019 version of MAERS form S-101 Source, 2019 version of MAERS form A-101 Activity, 2019 version of MAERS form EU-101 Emission Unit, 2019 version of MAERS form E-101 Emissions, January 2020 MAERS User Guide.
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Emissions Inventories				
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2015 8-hour ozone 2017 base year	Detroit area (Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties)	12/18/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
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[FR Doc. 2022-14321 Filed: 7/5/2022 8:45 am; Publication Date: 7/6/2022]